

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ROBERT D. FISHER,

Petitioner,

v.

Civil Action No. 2:07 CV 12
(Maxwell)

THOMAS MCBRIDE,

Respondent.

ORDER

It will be recalled that on February 6, 2007, *pro se* Petitioner Robert D. Fisher instituted the above-styled civil action by filing a Petition For Writ of Mandamus.

It will further be recalled that the case was referred to United States Magistrate Judge John S. Kaull for initial screening and the preparation of a Report and Recommendation.

On March 5, 2007, United States Magistrate Judge John S. Kaull issued an Opinion/Report And Recommendation wherein he recommended that the Petitioner's Petition For Writ of Mandamus be denied.

In his Report And Recommendation, Magistrate Judge Kaull provided the

Petitioner with ten (10) days from the date of said Opinion/Report And Recommendation in which to file objections thereto and advised the Petitioner that a failure to timely file objections would result in the waiver of his right to appeal from a judgment of this Court based upon said Opinion/Report And Recommendation.

The Petitioner's Objection To This Court's Opinion/Report And Recommendation Filed March 5, 2007 was filed with the Court on March 13, 2007.

Upon an independent *de novo* consideration of all matters now before the Court, it appears to the Court that the issues raised by the Petitioner in his Petition For Writ of Mandamus were thoroughly considered by Magistrate Judge Kaull in his Opinion/Report And Recommendation. Furthermore, upon consideration of the Petitioner's Objection To This Court's Opinion/Report And Recommendation Filed March 5, 2007, it appears to the Court that the Petitioner has not raised any issues that were not thoroughly considered by Magistrate Judge Kaull in said Opinion/Report And Recommendation. Moreover, the Court is of the opinion that Magistrate Judge Kaull's Opinion/Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in the above-styled civil rights action. Accordingly, it is

ORDERED that the Opinion/Report And Recommendation entered by United States Magistrate Judge John S. Kaull on March 5, 2007, be, and the

same is hereby, **ACCEPTED** in whole. Accordingly, it is

ORDERED that the Petitioner's Motion For Writ of Mandamus (Docket No.

1) be, and the same is hereby, **DENIED**. It is further

ORDERED that the Clerk of Court shall enter judgment for the Respondent. It is further

ORDERED that, should the Petitioner desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, the Petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court Of Appeals For The Fourth Circuit.

The Clerk of Court is directed to transmit a copy of this Order to the *pro se* Petitioner.

ENTER: May 24, 2007



United States District Judge